

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-032-C - ORDER NO. 1999-494

JULY 9, 1999

IN RE: Application of Legends Communications, Inc.)	ORDER	✓ MR
for a Certificate of Public Convenience and)	GRANTING	
Necessity to Provide Interexchange)	CERTIFICATE	
Telecommunications Services and for)		
Alternative Regulatory Treatment.)		

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Legends Communications, Inc. ("Legends" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1998) and the general regulatory authority of the Commission. By its Application, Legends also requested alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and requested waiver of certain Commission regulations.

The Commission's Executive Director instructed Legends to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of

the Application of Legends and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Legends complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

A hearing was convened on June 2, 1999, at 10:30 a.m. in the Commission's Hearing Room, Columbia, South Carolina. The Honorable Philip T. Bradley, Chairman, presided. Legends was represented by Bonnie D. Shealy, Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Thomas L. Childers, Chief Executive Officer of Legends, appeared and testified in support of the Application. The record reveals that Legends is a Georgia corporation which is registered to transact business in South Carolina as a foreign corporation. According to Mr. Childers, Legends proposes to provide intrastate long distance service in conjunction with interstate long distance service. Legends's services include message toll service on a switched or dedicated basis, inbound toll-free service on a switched or dedicated basis, travel card services, debit card services, and operator services to its customers over the resold facilities of other certified carriers. Mr. Childers explained the Company's request for authority, and the record reveals the Company's services, operations, and marketing procedures.

Mr. Childers also discussed Legends's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Finally, Mr. Childers testified that Legends will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Childers also offered that approval of Legends's application would serve the public interest by increasing the level of long distance competition in South Carolina, by providing a high-quality alternative of long distance service, and by increasing consumer awareness of alternatives and innovative services.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Legends is organized as a corporation under the laws of the State of Georgia and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Legends operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.
3. Legends has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Legends to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications

Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Legends for its resale of residential services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Legends shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. Legends shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

4. With respect to Legends's business service offerings including consumer calling card services, operator services, and customer network offerings, the Commission

adopts a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Legends also.

5. If it has not already done so by the date of issuance of this Order, Legends shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. Legends is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. Legends shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Legends changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, Legends shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

10. Legends shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Legends shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. As Legends proposes to provide operator services, Legends shall comply with the following conditions:

- (a) Regarding the provision of operator services, Legends shall comply with the Operator Service Provider Guidelines approved in Order No. 93-534, issued in Docket No. 93-026-C.

- (b) For intrastate 0+ operator assisted and calling card calls originating from pay telephones outside confinement facilities and at aggregator locations, Legends may not impose operator service charges greater than the intrastate charges then currently approved for AT&T. For the usage portion of the call, Legends may not charge more on interLATA calls than the intrastate interLATA rates charged by AT&T Communications for interLATA calls or on intraLATA calls than the intraLATA rates charged by BellSouth Telecommunications for intraLATA calls.
- (c) Legends is allowed to incorporate in its tariff a surcharge (property imposed fee) on operator-assisted and calling card calls not to exceed \$1.00 for calls originating from payphone (excluding pay telephones associated with inmate calling service) and from aggregator locations, only if the property owner has not added a surcharge already. That is, Legends may not impose an additional surcharge to calls originating from pay telephones and from aggregator locations if a property owner has already imposed such a surcharge. If such a surcharge is applied by Legends on behalf of the property owner, Legends is directed to pay the surcharge in its entirety to the property owner. Further, if the surcharge is applied, the end user should be notified of the imposition of the surcharge. This notification should be included in the information pieces identifying Legends as the operator service provider at that location.

(d) Legends is required to provide information pieces to pay telephone service providers or property owners identifying Legends as the provider of the operator service for authorized calls originating from the location. Legends is required to brand all calls identifying itself as the carrier. The information pieces shall be consistent with the format approved by the Commission in Order No. 93-811, issued in Docket No. 92-557-C.

13. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

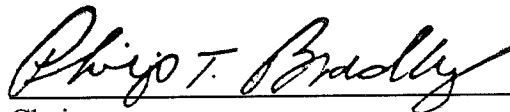
14. As a condition of offering prepaid long distance services, the Commission requires Legends to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition of a bond may be reviewed in one year.

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15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S**

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

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ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230